

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

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SPERO HARITATOS,	:
	:
Plaintiff,	:
	:
- against -	:
	:
HASBRO, INC.	:
and TOYS "R" US-NY LLC,	:
	:
Defendants.	:
	:
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05 Civ. 930 (DNH/GJD)

**SUPPLEMENTAL BRIEF IN SUPPORT OF DEFENDANTS'
REQUEST FOR A PROTECTIVE ORDER
TO COVER CONFIDENTIAL DISCOVERY**

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Attorneys for Defendant Hasbro, Inc.

Defendant Hasbro, Inc. ("Hasbro") respectfully requests permission to submit this supplemental brief to address two issues raised by plaintiff that were not previously discussed between the parties and therefore not addressed in Hasbro's prior brief on the protective order. The two issues concern, the definition of independent experts, on which there is no real disagreement, and Plaintiff's request, which was not included in the protective order that he proposed to defendants, that his wife have access to all confidential information in the two-tier scheme plaintiff proposed.

A. The Parties Agree That Independent Experts Should Not Include The Parties or Their Employees

Hasbro has never suggested that Independent Experts should include employees of the parties. Indeed, Hasbro never imagined that anyone would construe the term "Independent Expert" to include either the Parties to the litigation or their employees and Plaintiff never raised this concern with Hasbro prior to filing his brief. Nevertheless, to avoid any ambiguity, Hasbro would suggest amending paragraph 11 of Hasbro's proposed protective order (attached to Hasbro's initial brief as Exhibit A) to read as follows (with new material double underlined):

11. The term "Independent Expert" shall be defined as any person with whom a Party may deem it necessary to consult concerning technical, financial, or other aspects of this case for the preparation or trial thereof, provided such person is not a Party, an employee of a Party, a competitor of any Party, or an employee of a competitor of a Party, and has not been a consultant within the last year for a competitor of any Party.

**B. Plaintiff's Wife Should Not Be Accorded
Special Status Under the Protective Order**

Plaintiff's proposed two-tiered protective order provides for access to the lower tier by "[o]ne internal, non-lawyer representative of each Party," yet his brief requests access by two: not just Haritatos, but also his wife. For the reasons previously stated, Hasbro believes a simpler, single-tier protective order is appropriate, with all lawyers and their support staff treated equally.

If, however, there are to be two tiers, Hasbro does not object to access to the lower tier by Haritatos' wife (provided she signs the attachment agreeing to be bound), but if the entirety of plaintiff's side gets access to the lower tier, there should be equivalent access by Hasbro's business people. Hasbro should not be restricted to just one non-lawyer representative. If the Court adopts plaintiff's approach, Hasbro respectfully suggests that any Hasbro business person signing the attachment agreeing to be bound by the order should be given access to the lower tier of confidential information, if there is to be such a two-tier system.

Dated: November 28, 2005

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CERTIFICATE OF SERVICE

I hereby certify that I have caused a copy of the foregoing **HASBRO'S SUPPLEMENTAL BRIEF IN SUPPORT OF DEFENDANTS' REQUEST FOR A PROTECTIVE ORDER** to be filed electronically, with copies sent electronically to the counsel set forth below on November 28, 2005:

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